

APPEAL NO. 041786  
FILED SEPTEMBER 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 30, 2004, with (hearing officer 1) presiding. With respect to the single issue before her, the hearing officer determined that, based on the doctrine of res judicata, the Texas Workers' Compensation Commission (Commission) lacks jurisdiction to determine whether the compensable injury of \_\_\_\_\_, includes right knee internal derangement and that the compensable injury of \_\_\_\_\_, does not include a meniscus tear and osteoarthritis in the right knee. In her appeal, the claimant argues that the hearing officer erred in not finding that, in accordance with an agreement between the parties at a prior hearing, that the meniscus tear and osteoarthritis are part of the \_\_\_\_\_, compensable injury. In its response to the claimant's appeal, the respondent (carrier) urges affirmance. There was no appeal of the determination that the Commission lacked jurisdiction to determine whether the compensable injury of \_\_\_\_\_, includes internal derangement in the right knee.

DECISION

Affirmed.

The hearing officer did not err in determining that the compensable injury of \_\_\_\_\_, does not include a meniscus tear and osteoarthritis in the right knee. The claimant maintains that those conditions are part of the compensable injury, just as the internal derangement of the right knee is part of the compensable injury, based upon an agreement made between the parties at a prior hearing before a different hearing officer. On December 19, 2003, the parties appeared before (hearing officer 2). The issue at that hearing was stated as "[w]hether the compensable injury of (subsequent date of injury), includes an injury to claimant's bilateral knees in the form of internal derangement." The parties resolved that issue by executing an agreement. The provision of that agreement that is significant in this instance states "Claimant's right knee problems are a continuation of the compensable injury of \_\_\_\_\_, involving the identical parties." The claimant argues that because the meniscus tear and osteoarthritis were identified in an MRI of March 7, 2003, they are part of the right knee "problems" that the parties agreed were related to the \_\_\_\_\_, compensable injury at the prior hearing. We cannot agree that, as a matter of law, that interpretation of the agreement is the only reasonable interpretation. Indeed, the phrase "right knee problems" was somewhat vague and ambiguous and, as such, we cannot agree that the hearing officer erred in looking to the disputed issue that the agreement was resolving in order to determine that the parties only agreed that internal derangement was part of the \_\_\_\_\_, compensable injury. By virtue of the fact that only internal derangement was included in the disputed issue, it is reasonable to determine that internal derangement was the only condition being claimed by the claimant to be part of the compensable injury at that time; thus, it is equally reasonable

to conclude that the carrier only agreed to accept that condition as part of the compensable injury.

The claimant relied exclusively on her procedural argument that the carrier had previously agreed to accept the meniscus tear and osteoarthritis in the right knee to demonstrate that those conditions were part of the \_\_\_\_\_, compensable injury. The claimant simply did not present evidence to establish the causal connection between the compensable injury and those conditions on the merits. Therefore, the hearing officer properly determined that the claimant did not sustain her burden of proving the causal connection between her \_\_\_\_\_, compensable injury and the meniscus tear and osteoarthritis in the right knee.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY  
800 BRAZOS, SUITE 750, COMMODORE 1  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

\_\_\_\_\_  
Gary L. Kilgore  
Appeals Judge

\_\_\_\_\_  
Edward Vilano  
Appeals Judge